

G 52569

L19264 PA178

PART I

AGREEMENT TO PURCHASE AND DEVELOP LAND

By and Between

CITY OF DETROIT

and

State of Michigan

RECORDED NOV 25 1975 11:00 CLOCK AM
FOREST E. YOUNGBLOOD, Register of Deeds
WAYNE COUNTY, MICHIGAN 48226

937

S.H.M. 269
THIS AGREEMENT, consisting of this Part I and Part II (Form HUD-6209B, 269 annexed hereto and made a part hereof (which Part I and Part II are together hereinafter called the "Development Agreement"), made on or as of the 7th day of November, 1975, by and between the City of Detroit, a municipal corporation of the State of Michigan, whose address is City-County Building, Detroit, Michigan 48226, referred to herein as the "City", and State of Michigan whose address is Stevens T. Mason Bldg., Lansing, Michigan 48913, referred to herein as the "Developer."

WITNESSETH:

WHEREAS, in furtherance of the objectives of the Urban Renewal Act, Act. No. 344 of Public Acts of 1945 State of Michigan, as amended, referred to herein as the "Urban Renewal Act", the City, at substantial expense, has undertaken the rehabilitation of a blighted area located within its municipal boundaries and known as West Side Industrial Rehabilitation Project No. 2, Mich. R-97 referred to herein as the "Project" in a development area sometimes referred to herein as the "project area" located in the City; and

WHEREAS, the City, acting through its City Council on November 3, 1971, approved and adopted a Development Plan referred to herein as the "Development Plan", for the rehabilitation of the Project, which Plan, as so modified and as it may hereafter be further modified from time to time pursuant to law, and as so

G 52569

L19264 PA179

constituted from time to time, is, unless otherwise indicated by the context, sometimes hereinafter called "Development Plan"; and

WHEREAS, the Development Plan is recorded in the Office of the Register of Deeds for the County of Wayne and State of Michigan in Liber 18967 on Pages 861 through 875 and is incorporated in this Development Agreement by reference and made a part hereof; and

WHEREAS, in order to enable the City to undertake the Project and to achieve the objectives of the Development Plan, and more particularly to make land in the Project available for development in accordance with the limitations and conditions provided in the Development Plan and this Development Agreement, the Federal Government has undertaken to provide and has provided substantial financial aid and assistance under the provisions of a contract for Loan and Capital Grant dated the 31st. day of January, 1973; and

WHEREAS, the Developer has offered to purchase land in the Project which is hereafter described and which is referred to herein as the "Property" and to develop the Property in accordance with the Development Plan and the terms, covenants, and conditions of this Development Agreement; and

WHEREAS, the Developer has submitted evidence satisfactory to the City that it has the qualifications to develop the Property in accordance with the Development Plan and this Development Agreement; and

WHEREAS, the Community and Economic Development Department, referred to herein as the "Department", has been designated by the City Council of the City of Detroit as the administrative agency responsible for the administration of the Project; and

WHEREAS, the City believes that the redevelopment of the Property pursuant to the Agreement, and the fulfillment generally of the Agreement, are in the vital and best interests of the City and the health, safety, morals, and welfare of its residents, and in accord with the public purposes and provisions of the applicable

Federal, State and Local Laws and requirements under which the Project has been undertaken and is being assisted;

L19264 PA180

NOW, THEREFORE, in consideration of the premises and the mutual obligations, of the parties hereto, each of them does hereby covenant and agree with the offer as follows:

Sec. 1. SALE: PURCHASE PRICE.

Subject to the terms, covenants, and conditions of this Development Agreement and the Development Plan, the Developer agrees to purchase and develop and the City agrees to convey the property as described in Exhibit "A" hereof and made a part hereof for the price of ONE HUNDRED FORTY-SEVEN THOUSAND, FOUR HUNDRED FIFTY AND 00/100 DOLLARS (\$147,450.00) to be paid in cash or by certified check simultaneously with the delivery of the deed conveying the property to the Developer.

Sec. 2. CONVEYANCE OF PROPERTY.

(A) Title Commitment and Form of Deed

(1) Within 30 days after the execution of this Development Agreement, the City will furnish the Developer a commitment for an Owner's Title Insurance Policy in the amount of the purchase price issued by a responsible title insurance company authorized to do business in the State of Michigan guaranteeing title to the Developer subject to the terms, covenants and conditions of this Development Agreement.

(2) The City shall convey to the Developer title to the Property by Quit Claim Deed (hereinafter called "Deed"). Such conveyance and title shall, in addition to the condition subsequent provided for in Section 704 hereof, and to all other conditions, covenants and restrictions set forth or referred to elsewhere in this Development Agreement, be subject to all easements of record with respect to the Property which are to be continued or are to be newly created or reserved pursuant to the Development Plan, and any other reservations, encumbrances, or exceptions as recorded or made a part of the Modified Development Plan.

(B) Time and Place for Delivery of Deed

L19264 PA181

After delivery of a commitment for Owner's Policy as provided herein, the City shall deliver a Quit Claim Deed of the property substantially in the form of deed set forth in Exhibit "C" hereof, and after the deed is recorded shall deliver to the Developer a policy of title insurance guaranteeing title to the Developer subject to the terms, conditions and exceptions, if any, as set forth in the title policy commitment; and the City shall deliver the Deed and possession of the property to the Developer 30 days from the date of execution of this Agreement, or on such earlier date as the parties hereto may mutually agree in writing. Conveyance shall be made at the principal office of the Agency.

(C) Payment of Taxes

The Developer agrees to pay to the City at the time of conveyance an amount equal to the ad valorem taxes which would have been levied had an assessment been placed against the Property on the 1974 assessment roll prorated from time of conveyance to June 30, 1975 with respect to the City and School taxes, and to November 30, 1975 with respect to the County taxes if the conveyance of the property is prior to December 31, 1974. If conveyance occurs after said date, the dates in this clause will be adjusted at the time of closing to provide for payment of an amount equal to ad valorem taxes which would have been levied for the corresponding tax period or periods had the title to the property not been held by the City.

(D) Recordation of Deed

The Developer shall promptly file the deed for recordation with the Register of Deeds for Wayne County, Michigan. The Developer shall pay all costs (including the cost of the State documentary stamp tax on the Deed, for which stamps in the proper amount shall be affixed to the Deed by the Developer) for so recording the Deed.

Sec. 3. GOOD FAITH DEPOSIT.

L119264 PA182

(A) Amount

The Developer has, prior to or simultaneously with the execution of the Agreement with the City, delivered to the City a good faith deposit of cash or a certified check satisfactory to the City in the amount of FOURTEEN THOUSAND, SEVEN HUNDRED FORTY-FIVE AND 00/100----- DOLLARS (\$ 14,745.00), hereinafter called "Deposit", as security for the performance of the obligations of the Developer to be performed prior to the return of the Deposit to the Developer, or its retention by the City as liquidated damages.

(B) Interest

The City shall be under no obligation to pay or earn interest on the Deposit.

(C) Non-Application to Purchase Price

The Deposit shall not be applied on account of the Purchase Price but shall be retained by the City until completion of the Improvements as herein provided, and then returned to the Developer at the time the Certificate of Completion is issued as provided in Section 307 hereof.

(D) Retention by City

Upon termination of the Agreement as provided in Sections 703 and 704 hereof, the Deposit or the proceeds of the Deposit, if not *25.7.11* theretofore returned to the Developer pursuant to paragraph ^(E)~~(C)~~ of this Section, shall be retained by the City as provided in Sections 703 and 704 hereof.

(E) Return to Developer

Upon termination of the Agreement as provided in Section 702 hereof, the Deposit shall be returned to the Developer by the City as provided in Section 702 hereof.

Sec. 4. PRELIMINARY PLANS: EVIDENCE OF FINANCING; TIME FOR COMMENCEMENT AND COMPLETION OF IMPROVEMENTS.

(A) Developer has submitted satisfactory Preliminary Plans of the uses it will make of the property and the buildings and improve-

ments it will construct on the property which preliminary plans are set forth in Exhibit "B" hereof and made a part hereof; and the Developer has submitted to the City satisfactory evidence that it has the qualifications to develop the property in accordance with the Development Plan and this Development Agreement. LI 19264 PA 183

(B) The construction of the improvements referred to in Section 301 hereof shall be commenced in accordance with the schedule set forth in Exhibit "B" of this Agreement, to wit:

(1) The interim use construction on the North Development parcel shall be commenced within 90 days after the date of the Deed and shall be completed within 180 days after such date.

(2) The interim use construction on the South Development parcel shall be commenced within 90 days after the date of the Deed and shall be completed within 180 days after such date.

(3) The permanent use construction on the North Development parcel shall be commenced within 27 months after the date of the Deed and shall be completed within 21 months after such date.

(4) The permanent use construction on the South Development parcel shall be commenced within 48 months after the date of the Deed and shall be completed within 24 months after such date.

Sec. 5. TIME FOR CERTAIN OTHER ACTIONS.

(A) Interim Development

(1) Time for Submission of Construction Plans

The time within which the Developer shall submit its "Construction Plans" (as defined in Section 301 hereof) to the City in any event, pursuant to Section 301, hereof, shall be not later than 30 days from the date of the Agreement.

(2) Time for Submission of Corrected Construction Plans

Except as provided in Paragraph (3) of this Section 5 (A), the time within which the Developer shall submit any new or

19264 PA 184

corrected Construction Plans as provided for in Section 301 hereof shall not be later than 30 days after the date the Developer received written notice from the City of the City's rejection of the Construction Plans referred to in the latest such notice.

(3) Maximum Time for Approved Construction Plans

In any event, the time within which the Developer shall submit Construction Plans which conform to the requirements of Section 301 hereof and are approved by the City shall be not later than 30 days after the date the Developer receives written notice from the City of the City's first rejection of the original Construction Plans submitted to it by the Developer.

(4) Time for City Action on Change in Construction Plans

The time within which the City may reject any change in the Construction Plans, as provided in Section 302 hereof, shall be 30 days after the date of the City's receipt of notice of such change.

(5) Time for Submission of Evidence of Ability to Fund

The time within which the Developer shall submit to the City, in any event, evidence as to ability to fund as provided in Section 303 hereof, shall be not later than 30 days days after the date of written notice to the Developer of approval of the Construction Plans by the City, or, if the Construction Plans shall be deemed to have been approved as provided in Section 301 hereof, after the expiration of 30 days days following the date of receipt by the City of the Construction Plans so deemed approved.

(B) Permanent Development-North Parcel

(1) Time for Submission of Construction Plans

The time within which the Developer shall submit its "Construction Plans" (as defined in Section 301 hereof) to the City in any event, pursuant to Section 301, hereof, shall be not later than 24 months from the date of the Agreement.

(2) Time for Submission of Corrected Construction Plans

Except as provided in Paragraph (3) of this Section 5

449264 PA185

(B), the time within which the Developer shall submit any new or corrected Construction Plans as provided for in Section 301 hereof shall not be later than 30 days after the date the Developer received written notice from the City of the City's rejection of the Construction Plans referred to in the latest such notice.

(3) Maximum Time for Approved Construction Plans

In any event, the time within which the Developer shall submit Construction Plans which conform to the requirements of Section 301 hereof and are approved by the City shall be not later than 60 days after the date the Developer receives written notice from the City of the City's first rejection of the original Construction Plans submitted to it by the Developer.

(4) Time for City Action on Change in Construction Plans

The time within which the City may reject any change in the Construction Plans, as provided in Section 302 hereof shall be 30 days after the date of the City's receipt of notice of such change.

(5) Time for Submission of Evidence of Ability to Fund

The time within which the Developer shall submit to the City, in any event, evidence as to ability to fund as provided in Section 303 hereof, shall be not later than 30 days after the date of written notice to the Developer of approval of the Construction Plans by the City, or, if the Construction Plans shall be deemed to have been approved as provided in Section 301 hereof, after the expiration of 30 days following the date of receipt by the City of the Construction Plans so deemed approved.

(C) Permanent Development - South Parcel

(1) Time for Submission of Construction Plans

The time within which the Developer shall submit its "Construction Plans" (as defined in Section 301 hereof) to the City in any event, pursuant to Section 301, hereof, shall be not

later than 27 months from the date of the Agreement.

19264 PA186

(2) Time for Submission of Corrected Construction Plans

Except as provided in Paragraph (3) of this Section 5 (C), the time within which the Developer shall submit any new or corrected Construction Plans as provided for in Section 301 hereof shall not be later than 30 days after the date the Developer received written notice from the City of the City's rejection of the Construction Plans referred to in the latest such notice.

(3) Maximum Time for Approved Construction Plans

In any event, the time within which the Developer shall submit Construction Plans which conform to the requirements of Section 301 hereof and are approved by the City shall be not later than 60 days after the date the Developer receives written notice from the City of the City's first rejection of the original Construction Plans submitted to it by the Developer.

(4) Time for City Action on Change in Construction Plans

The time within which the City may reject any change in the Construction Plans, as provided in Section 302 hereof, shall be 30 days after the date of the City's receipt of notice of such change.

(5) Time for Submission of Evidence of Ability to Fund

6/6
The time within which the Developer shall submit to the City, in any ~~event~~ ^{event}, evidence as to ability to fund as provided in Section 303 hereof, shall be not later than 30 days after the date of written notice to the Developer of approval of the Construction Plans by the City, or, if the Construction Plans shall be deemed to have been approved as provided in Section 301 hereof, after the expiration of 30 days following the date of receipt by the City of the Construction Plans so deemed approved.

Sec. 6. PERIOD OF DURATION OF COVENANT ON USE.

L19264 PA187

The covenant pertaining to the uses of the Property, set forth in Section 401 hereof, shall remain in effect from the date of the Deed until November 3, 1996 the period specified or referred to in the Development Plan, or until such date thereafter to which it may be extended by proper amendment to the Development Plan, on which date, as the case may be, such covenant shall terminate.

Sec. 7. NOTICES AND DEMANDS.

A Notice, demand, or other communication under this Development Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered mail, postage prepaid, return receipt requested, and,

(i) In the case of a notice, demand or communication to the Developer is addressed to it at the following address: Stevens T. Mason Building
Lansing, Michigan 48913

(ii) In the case of a notice, demand or communication to the City is addressed to it at the following address: Community and Economic Development Department,
350 E. Congress, Detroit, Michigan 48226

or at such other address with respect to either such party as that party may, from time to time, designate in writing and forward to the other as provided in this section.

Sec. 8. SPECIAL PROVISIONS.

The Developer agrees, prior to construction to submit to the City of Detroit at its office, its plans and specifications, referred to herein as "Construction Plans", of the improvements to be constructed on the property. If, after examination, the City finds that such Construction Plans conform with the preliminary plans, the Development Plan and this Development Agreement, the City shall approve the Construction Plans as provided in Section 301. If the City rejects the Construction Plans because of not being in conformity with the preliminary plans, the Development Plan and

this Development Agreement written notification of rejection and the provisions of Section 5 relating to an approval, rejection and resubmission of corrected plans hereinabove provided with respect to the original Construction Plans shall continue to apply until the Construction Plans found to be satisfactory to the City shall be approved in time to enable the Developer to commence construction of the improvements on the date set forth in Section 4B hereof. The Developer agrees to conform to the requirements relative to funding ability as set forth in Part II of this Development Agreement.

Sec. 9. MODIFICATION OF PART II

(A) In Part II, the word "Agency" shall mean the "City", the word "Redeveloper" shall mean the "Developer", and "Urban Renewal Plan" shall mean the "Development Plan".

B.H.M. (B) Article I, Section 101 of HUD-6209B, ⁷⁻⁶⁹~~2-69~~, is modified to read as follows:

Sec. 101. Preparation by the City of Land for Development - Site Demolition. The City shall promptly, after conveyance and without expense to the Developer, prepare the property for the purposes of development by the Developer in accordance with the Development Plan and such preparation shall consist of the following (Unless the City and the Developer hereafter agrees in writing that any of such preparation shall not be done):

(A) Demolition and Removal. The demolition and removal of any existing buildings, structures and obstructions (including concrete foundations above grade) and the removal of any debris resulting from such removal. The City shall not be responsible for the removal of foundations or obstructions below grade.

(B) Removal of Paving. The removal of all paving, gutters and sidewalks within or on the property which are to be eliminated or removed pursuant to the Development Plan.

L19264 PA189

(C) Filling and Grading. Such filling, grading and leveling of the land (but not including topsoil or landscaping) as will place the property in a non-hazardous condition.

(C) Article I, Section 103 (G) is modified to read as follows:

(G) Installation of Public Utilities. The installation (by the City or by the appropriate public body or public utility company) of such sewers, drains, water and gas distribution lines, electric, telephone, and telegraph lines, and all other public utility lines, installations, and facilities as are necessary to be installed or relocated on or in connection with the Property by reason of the redevelopment contemplated by the Development Plan and the development of the Property: Provided, that the City shall not be responsible for, nor bear any portion of the cost of, installing the necessary utility connections within the boundaries of the Property between the Improvements to be constructed on the Property by the Developer and the water, sanitary sewer, and storm drain mains or other public utility lines owned by the City or by any public utility company within or without such boundaries, or electric, gas, telephone, or other public utility lines owned by any public utility company within or without such boundaries, and the Developer shall secure any permits required for any such installation without cost or expense to the City.

(D) Sections 401, 402 and 403 are hereby deemed to be revised as follows:

(1) Insert after subsection 401 (b) the following subsection:
Include in all advertising (including signs) for sale and/or rental of the whole or any part of the Property the legend, "An Open Occupancy Building" in type or

lettering of easily legible size and design. The word "Project" or "Development" may be substituted for the word "Building" where circumstances require such substitution.

L119264 PA190

- (11) In Section 402 and 403 substitute the words "subdivisions (b) and (c) of Section 401" wherever the words "subdivision (b) of Section 401" appear.

(E) Equal employment opportunity:

- (i) The Developer does hereby commit itself to require of the contractor and subcontractors awarded contracts in conjunction with this Agreement a total work force integration of 20 % in each skilled craft. The Developer will encourage and assist minority contractors to bid and perform on the project.

- (ii) In addition to Section (E) (i), and consistent with applicable laws, the developer agrees to require that any contractor or subcontractor employed in the performance of this contract comply with City of Detroit Ordinance 206-G and those rules and procedures adopted by the Human Relations Department pursuant to Section 2-7-6.3. The Developer agrees to require that any contractor or subcontractor employed in the performance of this contract take affirmative action to ensure that applicants are employed and that employees are treated ^{without} during employment ~~with~~ regard to age, sex, race, creed, color or national origin. Affirmative action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruiting or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeships.

- (iii) In accordance with Act. No. 251 P.A., 1955 as amended, the developer agrees that he will not discriminate against any employee or applicant for employment, to be employed

in the performance of this contract with respect to
his hire, tenure, terms, conditions or privileges or
employment or any matter directly or indirectly related
to employment because of his age, except when based on a
bona fide occupation qualification or because of his race,
color, religion, national origin or ancestry.

(iv) Section 9, Subsections (E) (i), (ii), and (iii) are not
intended to supercede Section 802, but rather deemed
to be an addition to Section 802.

(v) Breach of these covenants may be regarded as a material
breach of the contract.

(F) Article VI is hereby deleted.

(G) In Section 303, delete the words, "the equity capital and
commitments for mortgage financing," and substitute the words,
"evidence of ability to fund."

(1) In Section 702 (b) line 5, delete the words, "mortgage
financing," and substitute the words, "evidence of ability
to fund."

(ii) In Section 702 (b) line 12, delete the word, "financing,"
and substitute the words, "evidence of ability of fund."

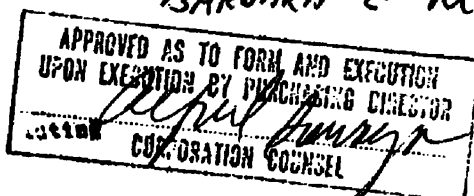
(I) In Section 304 delete the words "equity capital and commit-
ments for mortgage financing," and substitute the words,
"evidence of ability to fund."

Sec. 10. COUNTERPARTS.

This Development Agreement may be executed in four counterparts,
each of which shall be deemed to be an original, and such counter-
part shall constitute one and the same instrument.

WITNESS:

Anita Stehlin
ANITA STEHLIN
Barbara C Moore
BARBARA C MOORE



CITY OF DETROIT, a municipal
corporation of the State of Michigan

By G. F. Fischer
G. F. Fischer
Its Deputy Finance Director
1110 City-County Bldg.

CITY OF DETROIT

Michael S. Smith
Michael S. Smith, Director
Purchasing Div., Finance Dept.

NOV 17 1975

WITNESS:

J. W. Hanssens
J. W. HANSSENS
Betty L. Cushman
BETTY L. CUSHMAN

State of Michigan
(Developer)

LI 19264 PA 192

By Gerald H. Miller
GERALD H. MILLER, DIRECTOR

Its DEPARTMENT OF MANAGEMENT AND BUDGET

STATE OF MICHIGAN }
COUNTY OF WAYNE } SS.

On this 1st day of November, 1975, before me,
a Notary Public in and for said County, personally appeared
D. J. Fischer, to me personally known, who being by me
duly sworn, did say that he is the Deputy Finance Director of the
City of Detroit, a Municipal Corporation created and existing under
the laws of the State of Michigan, and that the seal affixed to the
foregoing instrument is the corporate seal of the said corporation,
and that the said instrument was signed and sealed in behalf of
said corporation by authority of its City Council, and the said
D. J. Fischer acknowledged the said instrument to be the
free act and deed of the said City of Detroit, a Municipal Corporation.

Barbara C. Moore
BARBARA C. MOORE
Notary Public, Wayne County, Mich.
My Commission expires: 7-18-79

This instrument drafted by:

Thomas J. O'Dowd
1010 City-County Building
Detroit, Michigan 48226

STATE OF MICHIGAN }
COUNTY OF INGHAM } SS.

LI19264 PA193

On this 3RD day of NOVEMBER, 19 75, before me, a
Notary Public in and for said County, personally appeared
GERALD H. MILLER, DIRECTOR
of the DEPT. OF MGT. & BUDGET for the State of
Michigan, to me known to be the same person who executed the within
instrument, and who acknowledged the same to be his free act and
deed and the free act and deed of the STATE ADMINISTRATIVE BDN.
for the State of Michigan in whose behalf he acts.

Julianne W. Hanssens
Notary Public

My Commission expires:
JULIANNA W. HANSSENS

Notary Public, Ingham Co., Mich.
My Comm. Expires April 29, 1979

EXHIBIT "A"

L19264 PA194

Land in the City of Detroit, County of Wayne, being the northerly 90.00 feet of Lots 8 through 11 inclusive, and the southerly 10.00 feet of the to be vacated public alley (20 feet wide) adjacent to that part of said Lots, northerly of Lafayette Boulevard (80 feet wide) between Brooklyn Avenue (50 feet wide) and Sixth Avenue (50 feet wide), all being in Block 34 of the plat of "Labrosse Farm South of the Chicago Road (Michigan Avenue)", as recorded in Liber 13, Page 85 of Deeds on December 12, 1835, Wayne County Records; also the northerly 90.00 feet of Lot 1 through 5 inclusive, except the easterly 12.0 feet of Lot 1, all being in the "Plat of the Subdivision of Lots 12, 13, and 14, Labrosse Farm on the Northwest Corner of Lafayette and Sixth Street," as recorded on January 31, 1852, in Liber 44, Page 120, Deeds, Wayne County Records, containing 33,800 square feet or 0.7759 acres more or less.

The public rights-of-way described within this parcel are to be vacated by the City Council of the City of Detroit and will be subject to such easements for public utilities as may be retained at the time of the vacation.

Land in the City of Detroit, County of Wayne, Michigan, being Lots 1 through 7, both inclusive, (except the easterly 12.00 feet of said Lot 1) and the northerly 10.00 feet of the to be vacated public alley (20 feet wide) southerly and adjacent thereto that part of the said lots, being in Block 34 of the plat of "Labrosse Farm, south of Chicago Road (Michigan Avenue)," as recorded in Liber 13, Page 85 of Deeds on December 12, 1835, Wayne County Records, containing 47,320 square feet or 1.0862 acres more or less.

The existing public rights of way described within this parcel are to be vacated by the City Council of the City of Detroit upon completion of the relocation of public utilities therein, or will be subject to such easements for public utilities as may be retained by the vacating resolution.

Land in the City of Detroit, County of Wayne, Michigan, being Lots 8 through 13, both inclusive, and the westerly 38.00 feet of Lot 14, being in Block 42 of the plat of

L19264 PA195

"Labrosse Farm, South of Chicago Road (Michigan Avenue)," as recorded on December 12, 1835, in Liber 13, Page 85 of Deeds, Wayne County Records; also the public easement (20 feet wide) northerly of and adjacent thereto the said Lots 8 through 13, and the westerly 38.00 feet of Lot 14, also the southerly 150.00 feet of the easterly 25.00 feet of the public easement (50 feet wide, Brooklyn Avenue) between Howard Avenue (60 feet wide) and Abbott Avenue (50 feet wide), said easements created by the Common Council of the City of Detroit on September 24, 1968 and recorded in J.C.C. Pages 2331-2332, entire parcel being 54,450 square feet, or 1.2500 acres more or less.

DESCRIPTION CORRECT.

Engr. of Surveys

By James E. Isgrig 11-7-75
DATE

EXHIBIT B

WEST SIDE INDUSTRIAL REHABILITATION PROJECT NO. 2
DISPOSITION PARCELS 28, 28-A, 28-B**A. Development Parcel Descriptions**

Two distinct parcels for development are herein identified. A unique development proposal and development schedule is described for each of the two parcels which are hereinafter identified as follows:

1. The NORTH DEVELOPMENT PARCEL which is bounded by Howard Street (south), Sixth Street (east), centerline of vacated Brooklyn Street (west), and the centerline of the vacated east-west alley north of Howard Street (north); and which is further identified as disposition parcel 28-B of West Side Industrial Rehabilitation Project No. 2, Mich. R-97. This parcel is to be unified in concept and treatment with the developer-owned parcel (located in West Side Industrial Project No. 1) adjacent to and north of the North Development Parcel and lying between Abbott Street and the east-west alley north of Howard Street.
2. The SOUTH DEVELOPMENT PARCEL which is bounded by Howard Street (north), Sixth Street (east) which is to be widened to 62 feet by adding twelve feet to the west side of existing Sixth Street (50 feet wide), W. Lafayette (south) and Brooklyn (west); and which is further identified as disposition parcels 28 and 28-A of West Side Industrial Project No. 2, Mich. R-97.

B. General Conditions Applicable to All Developments Within the Area Bounded by Abbott, Sixth, Lafayette, and Brooklyn

1. Development Concept: A staged development which will produce an identity and a "campus" for State of Michigan facilities, the focus of this campus being at Howard and Sixth, major access being via Howard and Lafayette, major image and identity being provided by the existing "Executive Plaza" towers and by future structures at Lafayette and Sixth; primary service and processing facilities to be adjacent to and serviced from Abbott Street; structured auto parking to be a major land use and to be serviced primarily from Howard (no vehicular access to be permitted from Lafayette); pedestrian approaches to be primarily via Lafayette to raised plazas on each of the DEVELOPMENT PARCELS which may be connected by bridges over Howard and which may be connected directly to the "Executive Plaza" by a bridge over Sixth Street.
2. Interim Development for both DEVELOPMENT PARCELS:
 - a) interim usage to be surface parking with approximately 450 spaces (each of at least 180 square feet exclusive of drives and aiseways) for State-owned vehicles, employees and visitors using State facilities;
 - b) parking to be set back 15 feet from right-of-way lines of Abbott, Sixth, Howard, and Brooklyn (between Howard and Lafayette);

- 19264 PA197
- c) parking to be screened from Abbott, Sixth, Howard, Brooklyn (between Howard and Lafayette) and Lafayette by a sodded earth mound within the 15 foot setback area or by other devices as approved by the Urban Renewal Planning staff which shall be located on or behind the setback line and shall be not less than 30 inches high;
 - d) vehicular access to be only from Howard and Abbott Streets;
 - e) parking areas to be paved with a concrete pavement having a bituminous or Portland cement binder on an aggregate base of adequate thickness to withstand intended usage and to be adequately drained and lighted;
 - f) such treatment is further detailed in a drawing entitled Executive Plaza Properties, Proposal for Interim Development, dated 6-5-74, prepared by Beckett, Jackson & Raeder Inc., 3983 Research Park Drive, Ann Arbor; which is to be corrected to show the following modifications: The east-west dimension of the SOUTH DEVELOPMENT PARCEL shall be reduced by twelve feet taken from the east side of the PARCEL; and a sodded earth mound or other screen shall be provided north of and adjacent to the north right-of-way line of W. Lafayette and shall be equal to or compatible with such treatment provided by the developer along all other rights-of-way;
 - g) duration of Interim Use shall cease and commencement of construction for permanent use shall begin not later than:
 - (1) NORTH PARCEL (Abbott to Howard)--27 months from date of signing of the Development Agreement
 - (2) SOUTH PARCEL (Howard to W. Lafayette)--48 months from date of signing of the Development Agreement
 - h) construction plans for interim use facilities shall be submitted within 90 days after signing of Development Agreement for approval of Urban Renewal Planning staff; improvements shall be completed within 180 days after signing of Development Agreement.
3. Conditions and Requirements Applicable to All Permanent Development:
- a) Permitted Uses: offices, structured parking for State-owned vehicles, employees and visitors using State facilities, open parking only as needed to serve uses on each DEVELOPMENT PARCEL, vehicle service facilities (if enclosed within a structure or 8 foot high enclosure), storage and processing facilities, retail uses to serve these or adjacent parcels if a subordinate part of the total development, and such other uses as are permitted by the Second Modified Development Plan (dated 6-1-70) for West Side Industrial No. 2.
 - b) Setback Requirements: all buildings and surface parking areas shall be set back from street right-of-way lines a distance of 15 feet; the only exception being that no setback is required from the Lafayette right-of-way line.
 - c) Landscaping: all setback areas and areas not developed with buildings or surface parking shall be landscaped with sod, trees, shrubbery, and/or other materials which shall be approved by the Urban Renewal Planning staff.

- d) Building Height: buildings shall be not more than 80 feet high.
- e) F.A.R. and Gross Floor Areas: all buildings on a parcel may have a combined F.A.R. ratio of not more than 3.5 (a variance from this requirement may be requested in accordance with provisions of the Development Plan in effect at the time of the request); minimum Gross Floor Areas are specified for each parcel in following sections of this Exhibit B.
- f) Loading and Surface Parking Areas: all such areas shall be off-street and behind setback lines, shall be surfaced with a concrete pavement having a bituminous or Portland cement binder on an aggregate base of adequate thickness to withstand intended usage, shall be adequately drained and lighted, and shall be screened from the street and adjacent buildings by earth mounds which may be within the setback area or by walls or other devices at least 30 inches high and located on or behind setback lines.
- g) Parking Requirements: parking requirements as defined in the Second Modified Development Plan (6-1-70) for West Side Industrial Project No. 2 are to be applied to uses proposed for the two DEVELOPMENT PARCELS, and are not applicable to existing facilities located north of Abbott or east of Sixth Street.
- h) Other Conditions and Approval of Plans: all other conditions and restrictions of the Second Modified Development Plan (6-1-70) for West Side Industrial Project No. 2 shall apply to both DEVELOPMENT PARCELS and shall equally apply to the area bounded by Abbott, the east-west alley north of Howard, Sixth and vacated Brooklyn; all preliminary and final plans, landscape plans and signing shall be approved by the Urban Renewal Planning staff prior to issuance of a building permit.

C. Additional Conditions Applicable to the NORTH DEVELOPMENT PARCEL
(and to the adjacent developer-owned parcel)

1. Nature of Development

- a) Total Gross Floor Area of all floors and basements including structured parking is to be 110,000 square feet minimum.
- b) Location of structures may be totally or in part on either side of the vacated east-west alley north of Howard.
- c) Proposed Development shall be as follows:
- (1) two levels of parking for approximately 200 cars, vehicle service, storage and processing facilities
 - (2) buildings covering most of the site exclusive of setback areas; parking access from Howard; other vehicular access from Abbott
 - (3) a pedestrian plaza above grade and constructed above the two levels of parking described above; this plaza may be connected by bridges over streets to "Executive Plaza" and to the SOUTH DEVELOPMENT PARCEL; this plaza is to be located at the north-west corner of Howard and Sixth

LI 19264 PA 198

LI 19264 PA199

- (4) additional levels north and west of the raised plaza and above the lower two parking levels to house office, storage, or processing facilities, which may include parking for approximately 600 cars, and which will define and enclose the raised plaza
- (5) design of structures and selection of colors and materials to be consistent and compatible with existing "Executive Plaza" towers and garage, assuring a unified image for the State "campus"; to be subject to approval by the Urban Renewal Planning staff
- (6) all of the above development shall be completed prior to issuance of a certificate of completion for the NORTH DEVELOPMENT PARCEL

2. Schedule for completion of development

- a) Developer shall submit construction plans for approval of the Urban Renewal Planning staff and shall submit evidence of legislative approval of financing within 24 months of signing of this Development Agreement;
- b) construction shall commence within 27 months of signing of the Development Agreement and completion of structures enclosing the required 110,000 square feet gross floor area (minimum) shall be not more than 21 months after commencement of construction.

D. Additional Conditions Applicable to the SOUTH DEVELOPMENT PARCEL

1. Nature of Development

- a) Total Gross Floor Area of all floors and basements including structured parking is to be 90,000 square feet minimum.
- b) A major structure, not for parking, shall eventually be located along the Lafayette side of the parcel and shall be not less than the height of a two-story building.
- c) Proposed Development shall be as follows:
 - (1) two levels of parking for approximately 350 cars with access from Howard
 - (2) a plaza raised above grade and above the parking, landscaped, and which may be connected by bridges over Howard to the NORTH DEVELOPMENT PARCEL
 - (3) eventually, additional levels may be constructed for office, storage, processing and other facilities, some portion of which is to be located at the southeast corner of the site; these levels should have a gross floor area of at least 120,000 square feet (this phase need not be completed prior to issuance of a Certificate of Completion for the SOUTH DEVELOPMENT PARCEL)

2. Schedule for Completion of Development

LI19264 PA200

- a) Developer shall submit preliminary construction plans for approval of the Urban Renewal Planning staff and shall submit evidence of legislative approval of financing within 27 months of signing of this Development Agreement.
- b) Developer shall submit final construction plans for approval of Urban Renewal Planning staff within 42 months of the signing of this Development Agreement.
- c) Construction shall commence within 48 months of the signing of the Development Agreement and completion of structures enclosing the required 90,000 square foot gross floor area (minimum) shall be not more than 24 months after commencement of construction.

E. Documents Submitted by the Developer which further detail the Development Proposal are:

1. A brochure of 36 pages entitled "Development Proposal- Urban Renewal Land Adjacent to Executive Plaza Building," dated June 5, 1974, and prepared by Beckett, Jackson, Raeder, Inc., 3983 Research Park Drive, Ann Arbor, Michigan.
2. A letter dated June 21, 1974 from John T. Dempsey, Director of the Department of Management and Budget of the State of Michigan, addressed to R. J. Chambers, attention of V. Kowalski, of the Community and Economic Development Department of the City of Detroit and containing a "Development Time Table for West Side Industrial Rehabilitation. Project No. 2, Mich. R-97, Land Disposition: Parcels 28, 28-A, and 28-B.

EXHIBIT "C"

DEVELOPMENT AGREEMENT

QUIT CLAIM DEED

L 19264 PA201

KNOW ALL MEN BY THESE PRESENTS: That the City of Detroit, a
Municipal Corporation of the State of Michigan, quit claims to

whose post office address is

the following described premises in the

located in the City of Detroit, County of Wayne, and State of
Michigan, and more particularly described as:

together with all and singular the tenements, hereditaments and
appurtenances thereunto belonging or in anywise appertaining, for
the sum of

Subject to the Modified Development Plan for the

which is incor-

porated herein by reference and which is recorded in the Office of
the Register of Deeds for the County of Wayne in Liber on

Pages through

This Deed is given subject to the terms, covenants and conditions of a Development Agreement dated _____ entered into by the parties hereto and which is incorporated herein by reference and recorded in the Office of the Register of Deeds for the County of Wayne in Liber _____ on Pages _____ through _____ inclusive, none of the terms, covenants and conditions of which shall be deemed merged in this Deed. The covenants therein recited to be covenants running with the land are hereby declared to be covenants running with the land enforceable by the City as therein set forth.

Dated this _____ day of _____, A.D., 19____.

IN WITNESS WHEREOF the City of Detroit has caused this instrument to be executed by its duly authorized officer and sealed with its corporate seal, the day and year first above written.

In the Presence of:

CITY OF DETROIT
A Municipal Corporation

By _____

1110 City-County Building
Detroit, Michigan 48226

STATE OF MICHIGAN }
COUNTY OF WAYNE } SS

On this _____ day of _____, 19____, before me, a Notary Public in and for said County, personally appeared _____ to me personally known, who being by me duly sworn, did say that he is the _____ of the City of Detroit, a Municipal Corporation created and existing under the laws of the State of Michigan, and that the seal affixed to the foregoing instrument is the corporate seal of the said corporation, and that the said deed was signed and sealed in behalf of said corporation by authority of its City Council, and the said _____ acknowledged the said instrument to be the free act and deed of the said City of Detroit, a Municipal Corporation.

Approved as to Form and Execution:

Corporation Counsel

ATTEST:

City Clerk

Notary Public, Wayne County, Michigan
My Commission expires _____

This Instrument Drafted by:
Mr. Thomas J. O'Dowd
1010 City-County Building
Detroit, Michigan 48226

L19264 PA202

PART II

L19264 PA203

AGREEMENT TO PURCHASE AND DEVELOP LAND

C O N T E N T S

<u>Section</u>	<u>Page</u>
ARTICLE I. PREPARATION OF PROPERTY FOR REDEVELOPMENT	
101. Work to be performed by Agency	1
102. Expenses, Income, and Salvage	1
103. Agency's Responsibilities for Certain Other Actions	2
104. Waiver of Claims and Joining in Petitions by Redeveloper	3
ARTICLE II. RIGHTS OF ACCESS TO PROPERTY	
201. Right of Entry for Utility Service	3
202. Redeveloper Not To Construct Over Utility Easements	3
203. Access to Property	3
ARTICLE III. CONSTRUCTION PLANS; CONSTRUCTION OF IMPROVEMENTS; CERTIFICATE OF COMPLETION	
301. Plans for Construction of Improvements	4
302. Changes in Construction Plans	5
303. Evidence of Equity Capital and Mortgage Financing	5
304. Approvals of Construction Plans and Evidence of Financing as Conditions Precedent to Conveyance	5
305. Commencement and Completion of Construction of Improvements	5
306. Progress Reports	6
307. Certificate of Completion	6
ARTICLE IV. RESTRICTIONS UPON USE OF PROPERTY	
401. Restrictions on Use	7
402. Covenants; Binding Upon Successors in Interest; Period of Duration	7
403. Agency and United States Rights to Enforce	8
ARTICLE V. PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER	
501. Representations As to Redevelopment	8
502. Prohibition Against Transfer of Shares of Stock; Binding Upon Stockholders Individually	9
503. Prohibition Against Transfer of Property and Assignment of Agreement	10

Section

L19264 PA204

Page

504. Information As to Stockholders 12

ARTICLE VI. MORTGAGE FINANCING; RIGHTS OF
MORTGAGEES

601. Limitation Upon Encumbrance of Property 12

602. Mortgagee Not Obligated to Construct 13

603. Copy of Notice of Default to Mortgagee 13

604. Mortgagee's Option to Cure Defaults 13

605. Agency's Option To Pay Mortgage Debt or Purchase Property 14

606. Agency's Option To Cure Mortgage Default 15

607. Mortgage and Holder 15

ARTICLE VII. REMEDIES

701. In General 15

702. Termination by Redeveloper Prior to Conveyance 15

703. Termination by Agency Prior to Conveyance 16

704. Revesting Title in Agency Upon Happening of Event
Subsequent to Conveyance to Redeveloper 17

705. Resale of Reacquired Property; Disposition of Proceeds 18

706. Other Rights and Remedies of Agency; No Waiver by Delay 19

707. Enforced Delay in Performance for Causes Beyond Control
of Party 19

708. Rights and Remedies Cumulative 20

709. Party in Position of Surety With Respect to Obligations 20

ARTICLE VIII. MISCELLANEOUS

801. Conflict of Interests; Agency Representatives Not
Individually Liable 21

802. Equal Employment Opportunity 21

803. Provisions Not Merged With Deed 22

804. Titles of Articles and Sections 22

ARTICLE I. PREPARATION OF PROPERTY FOR REDEVELOPMENT

L19264 PA205

SEC. 101. Work To Be Performed by Agency. The Agency shall, prior to conveyance of the Property and without expense to the Redeveloper, prepare the Property for redevelopment by the Redeveloper in accordance with the Urban Renewal Plan and the Agreement. Such preparation of the Property shall consist of the following (unless the Agency and the Redeveloper hereafter agree in writing that any of such preparation shall not be done, or that it shall be done subsequent to the conveyance of the Property):

- (a) Demolition and Removal. The demolition and removal to the surface elevation of the adjoining ground of all existing buildings, other structures and improvements on the Property, including the removal of all bricks, lumber, pipes, equipment and other material, and all debris and rubbish resulting from such demolition, except such material and debris as may be used for any filling required by this Section.
- (b) Reduction of Walls. The reduction of all walls, including foundation walls, to the surface elevation of the adjoining ground.
- (c) Breaking Up Basement Floors. The breaking up of all basement or cellar floors sufficiently to permit proper drainage.
- (d) Removal of Paving. The removal by the Agency or by the appropriate public body of all paving (including catch basins, curbs, gutters, drives, and sidewalks) within or on the Property.
- (e) Removal of Public Utility Lines. The removal or abandonment by the Agency or by the appropriate public body or public utility company of all public utility lines, installations, facilities, and related equipment within or on the Property.
- (f) Filling and Grading. Such filling, grading, and leveling of the land (but not including topsoil or landscaping) as will permit proper drainage and place the Property in a safe, clean, sanitary, and nonhazardous condition.
- (g) Filling Materials. The filling of all basements or other excavations exposed as a result of the work performed by the Agency pursuant to this Section, with noncombustible materials to a level twelve (12) inches below the surface of the adjoining ground on all sides thereof.

SEC. 102. Expenses, Income, and Salvage. All expenses, including current taxes, if any, relating to buildings or other structures demolished or to be demolished in accordance with Section 101 hereof shall be borne by, and all income or salvage received as a result of the demolition of such buildings or structures shall belong to, the Agency.

SEC. 103. Agency's Responsibilities for Certain Other Actions. The Agency, without expense to the Redeveloper or assessment or claim against the Property and prior to completion of the improvements (or at such earlier time or times as the Redeveloper and the Agency may agree in writing), shall, in accordance with the Urban Renewal Plan, provide or secure or cause to be provided or secured, the following:

- (a) Vacation of Streets, Etc. The closing and vacation of all existing streets, alleys, and other public rights-of-way within or abutting on the Property.
- (b) Replatting, Resubdivision, or Rezoning. The replatting, resubdivision, or rezoning of the Property, if necessary for the conveyance thereof to the Redeveloper.
- (c) Improvements of Existing Streets. The improvement (by the Agency or by the appropriate public body) by resurfacing, rebuilding, or new construction, in accordance with the technical specifications, standards, and practices of the City, of the existing streets, alleys, or other public rights-of-way (including catch basins, curbs and gutters, drive and curb cuts, and drives between the property line of the Property and the public rights-of-way) abutting on the Property.
- (d) Construction and Dedication of New Streets. The construction (by the Agency or by the appropriate public body), in accordance with the technical specifications, standards, and practices of the City, and the dedication of all new streets, alleys, and other public rights-of-way (including catch basins, curbs, and gutters) abutting on the Property.
- (e) Installation of Sidewalks. The installation (by the Agency or by the appropriate public body), in accordance with the technical specifications, standards, and practices of the City, of public sidewalks along the frontage of the public streets abutting on the Property or within the rights-of-way lines of such public streets, together with sodding or seeding of any such public area between such sidewalks or the curb lines of such public streets.
- (f) Street Lighting, Signs, and Fire Hydrants. The installation (by the Agency or by the appropriate public body), in accordance with the technical specifications, standards, and practices by the City, of street lighting, signs, and fire hydrants in connection with all new streets abutting on the Property and to be constructed pursuant to this Section.
- (g) Installation of Public Utilities. The installation or relocation (by the Agency or by the appropriate public body or public utility company) of such sewers, drains, water and gas distribution lines, electric, telephone, and telegraph lines, and all other public utility lines, installations, and facilities as

are necessary to be installed or relocated on or in connection with the Property by reason of the redevelopment contemplated by the Urban Renewal Plan and the development of the Property: Provided, That the Agency shall not be responsible for, nor bear any portion of the cost of, installing the necessary utility connections within the boundaries of the Property between the Improvements to be constructed on the Property by the Redeveloper and the water, sanitary sewer, and storm drain mains or other public utility lines owned by the City or by any public utility company within or without such boundaries, or electric, gas, telephone, or other public utility lines owned by any public utility company within or without such boundaries, and the Redeveloper shall secure any permits required for any such installation without cost or expense to the Agency.

SEC. 104. Waiver of Claims and Joining in Petitions by Redeveloper. The Redeveloper hereby waives (as the purchaser of the Property under the Agreement and as the owner after the conveyance of the Property provided for in the Agreement) any and all claims to awards of damages, if any, to compensate for the closing, vacation, or change of grade of any street, alley, or other public right-of-way within or fronting or abutting on, or adjacent to, the Property which, pursuant to subdivision (a) of Section 103 hereof, is to be closed or vacated, or the grade of which is to be changed, and shall upon the request of the Agency subscribe to, and join with, the Agency in any petition or proceeding required for such vacation, dedication, change of grade, and, to the extent necessary, rezoning, and execute any waiver or other document in respect thereof.

ARTICLE II. RIGHTS OF ACCESS TO PROPERTY

SEC. 201. Right of Entry for Utility Service. The Agency reserves for itself, the City, and any public utility company, as may be appropriate, the unqualified right to enter upon the Property at all reasonable times for the purpose of reconstructing, maintaining, repairing, or servicing the public utilities located within the Property boundary lines and provided for in the easements described or referred to in Paragraph (a), Section 2 of Part I hereof.

SEC. 202. Redeveloper Not To Construct Over Utility Easements. The Redeveloper shall not construct any building or other structure or improvement on, over, or within the boundary lines of any easement for public utilities described or referred to in Paragraph (a), Section 2 of Part I hereof, unless such construction is provided for in such easement or has been approved by the City. If approval for such construction is requested by the Redeveloper, the Agency shall use its best efforts to assure that such approval shall not be withheld unreasonably.

SEC. 203. Access to Property. Prior to the conveyance of the Property by the Agency to the Redeveloper, the Agency shall permit representatives of the Redeveloper to have access to any part of the Property as to which the Agency holds title, at all reasonable times for the purpose of obtaining data

and making various tests concerning the Property necessary to carry out the Agreement. After the conveyance of the Property by the Agency to the Redeveloper, the Redeveloper shall permit the representatives of the Agency, the City, and the United States of America access to the Property at all reasonable times which any of them deems necessary for the purposes of the Agreement, the Cooperation Agreement, or the Contract for Loan and Capital Grant, including, but not limited to, inspection of all work being performed in connection with the construction of the Improvements. No compensation shall be payable nor shall any charge be made in any form by any party for the access provided for in this Section.

ARTICLE III. CONSTRUCTION PLANS; CONSTRUCTION OF
IMPROVEMENTS; CERTIFICATE OF COMPLETION

SEC. 301. Plans for Construction of Improvements. Plans and specifications with respect to the redevelopment of the Property and the construction of improvements thereon shall be in conformity with the Urban Renewal Plan, the Agreement, and all applicable State and local laws and regulations. As promptly as possible after the date of the Agreement, and, in any event, no later than the time specified therefor in Paragraph (a), Section 5 of Part I hereof, the Redeveloper shall submit to the Agency, for approval by the Agency, plans, drawings, specifications, and related documents, and the proposed construction schedule (which plans, drawings, specifications, related documents, and progress schedule, together with any and all changes therein that may thereafter be made and submitted to the Agency as herein provided, are, except as otherwise clearly indicated by the context, hereinafter collectively called "Construction Plans") with respect to the improvements to be constructed by the Redeveloper on the Property, in sufficient completeness and detail to show that such improvements and construction thereof will be in accordance with the provisions of the Urban Renewal Plan and the Agreement. The Agency shall, if the Construction Plans originally submitted conform to the provisions of the Urban Renewal Plan and the Agreement, approve in writing such Construction Plans and no further filing by the Redeveloper or approval by the Agency thereof shall be required except with respect to any material change. Such Construction Plans shall, in any event, be deemed approved unless rejection thereof in writing by the Agency, in whole or in part, setting forth in detail the reasons therefor, shall be made within thirty (30) days after the date of their receipt by the Agency. If the Agency so rejects the Construction Plans in whole or in part as not being in conformity with the Urban Renewal Plan or the Agreement, the Redeveloper shall submit new or corrected Construction Plans which are in conformity with the Urban Renewal Plan and the Agreement, within the time specified therefor in Paragraph (b), Section 5 of Part I hereof, after written notification to the Redeveloper of the rejection. The provisions of this Section relating to approval, rejection, and resubmission of corrected Construction Plans hereinabove provided with respect to the original Construction Plans shall continue to apply until the Construction Plans have been approved by the Agency: Provided, That in any event the Redeveloper shall submit Construction Plans which are in conformity with the requirements of the Urban Renewal Plan and the Agreement, as determined by the Agency, no later than the time specified therefor in Paragraph (c), Section 5 of Part I

hereof. All work with respect to the improvements to be constructed or provided by the Redeveloper on the Property shall be in conformity with the Construction Plans as approved by the Agency. The term "Improvements", as used in this Agreement, shall be deemed to have reference to the improvements as provided and specified in the Construction Plans as so approved.

SEC. 302. Changes in Construction Plans. If the Redeveloper desires to make any change in the Construction Plans after their approval by the Agency, the Redeveloper shall submit the proposed change to the Agency for its approval. If the Construction Plans, as modified by the proposed change, conform to the requirements of Section 301 hereof with respect to such previously approved Construction Plans, the Agency shall approve the proposed change and notify the Redeveloper in writing of its approval. Such change in the Construction Plans shall, in any event, be deemed approved by the Agency unless rejection thereof, in whole or in part, by written notice thereof by the Agency to the Redeveloper, setting forth in detail the reasons therefor, shall be made within the period specified therefor in Paragraph (d), Section 5 of Part I hereof.

SEC. 303. Evidence of Equity Capital and Mortgage Financing. As promptly as possible after approval by the Agency of the Construction Plans, and, in any event, no later than the time specified therefor in Paragraph (e), Section 5 of Part I hereof, the Redeveloper shall submit to the Agency evidence satisfactory to the Agency that the Redeveloper has the equity capital and commitments for mortgage financing necessary for the construction of the Improvements.

SEC. 304. Approvals of Construction Plans and Evidence of Financing As Conditions Precedent to Conveyance. The submission of Construction Plans and their approval by the Agency as provided in Section 301 hereof, and the submission of evidence of equity capital and commitments for mortgage financing as provided in Section 303 hereof, are conditions precedent to the obligation of the Agency to convey the Property to the Redeveloper.

SEC. 305. Commencement and Completion of Construction of Improvements. The Redeveloper agrees for itself, its successors and assigns, and every successor in interest to the Property, or any part thereof, and the Deed shall contain covenants on the part of the Redeveloper for itself and such successors and assigns, that the Redeveloper, and such successors and assigns, shall promptly begin and diligently prosecute to completion the redevelopment of the Property through the construction of the Improvements thereon, and that such construction shall in any event be begun within the period specified in Section 4 of Part I hereof and be completed within the period specified in such Section 4. It is intended and agreed, and the Deed shall so expressly provide, that such agreements and covenants shall be covenants running with the land and that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in the Agreement itself, be, to the fullest extent permitted by law and equity, binding for the benefit of the community and the Agency and enforceable by the Agency against the Redeveloper and its successors and assigns to or of the Property or any part thereof or any interest therein.

SEC. 306. Progress Reports. Subsequent to conveyance of the Property, or any part thereof, to the Redeveloper, and until construction of the Improvements has been completed, the Redeveloper shall make reports, in such detail and at such times as may reasonably be requested by the Agency, as to the actual progress of the Redeveloper with respect to such construction.

SEC. 307. Certificate of Completion.

(a) Promptly after completion of the Improvements in accordance with those provisions of the Agreement relating solely to the obligations of the Redeveloper to construct the Improvements (including the dates for beginning and completion thereof), the Agency will furnish the Redeveloper with an appropriate instrument so certifying. Such certification by the Agency shall be (and it shall be so provided in the Deed and in the certification itself) a conclusive determination of satisfaction and termination of the agreements and covenants in the Agreement and in the Deed with respect to the obligations of the Redeveloper, and its successors and assigns, to construct the Improvements and the dates for the beginning and completion thereof: Provided, That if there is upon the Property a mortgage insured, or held or owned, by the Federal Housing Administration and the Federal Housing Administration shall have determined that all buildings constituting a part of the Improvements and covered by such mortgage are, in fact, substantially completed in accordance with the Construction Plans and are ready for occupancy, then, in such event, the Agency and the Redeveloper shall accept the determination of the Federal Housing Administration as to such completion of the construction of the Improvements in accordance with the Construction Plans, and, if the other agreements and covenants in the Agreement obligating the Redeveloper in respect of the construction and completion of the Improvements have been fully satisfied, the Agency shall forthwith issue its certification provided for in this Section. Such certification and such determination shall not constitute evidence of compliance with or satisfaction of any obligation of the Redeveloper to any holder of a mortgage, or any insurer of a mortgage, securing money loaned to finance the Improvements, or any part thereof.

(b) With respect to such individual parts or parcels of the Property which, if so provided in Part I hereof, the Redeveloper may convey or lease as the Improvements to be constructed thereon are completed, the Agency will also, upon proper completion of the Improvements relating to any such part or parcel, certify to the Redeveloper that such Improvements have been made in accordance with the provisions of the Agreement. Such certification shall mean and provide, and the Deed shall so state, (1) that any party purchasing or leasing such individual part or parcel pursuant to the authorization herein contained shall not (because of such purchase or lease) incur any obligation with respect to the construction of the Improvements relating to such part or parcel or to any other part or parcel of the Property; and (2) that neither the Agency nor any other party shall thereafter have or be entitled to exercise with respect to any such individual part or parcel so sold (or, in the case of lease, with respect to the leasehold interest) any rights or remedies or controls that it may

LI 19264 PA 211

HUD-3398
(9.69)

otherwise have or be entitled to exercise with respect to the Property as a result of a default in or breach of any provisions of the Agreement or the Deed by the Redeveloper or any successor in interest or assign, unless (i) such default or breach be by the purchaser or lessee, or any successor in interest to or assign of such individual part or parcel with respect to the covenants contained and referred to in Section 401 hereof, and (ii) the right, remedy, or control relates to such default or breach.

(c) Each certification provided for in this Section 307 shall be in such form as will enable it to be recorded in the proper office for the recordation of deeds and other instruments pertaining to the Property, including the Deed. If the Agency shall refuse or fail to provide any certification in accordance with the provisions of this Section, the Agency shall, within thirty (30) days after written request by the Redeveloper, provide the Redeveloper with a written statement, indicating in adequate detail in what respects the Redeveloper has failed to complete the Improvements in accordance with the provisions of the Agreement, or is otherwise in default, and what measures or acts it will be necessary, in the opinion of the Agency, for the Redeveloper to take or perform in order to obtain such certification.

ARTICLE IV. RESTRICTIONS UPON USE OF PROPERTY

SEC. 401. Restrictions on Use. The Redeveloper agrees for itself, and its successors and assigns, and every successor in interest to the Property, or any part thereof, and the Deed shall contain covenants on the part of the Redeveloper for itself, and such successors and assigns, that the Redeveloper, and such successors and assigns, shall:

- (a) Devote the Property to, and only to and in accordance with, the uses specified in the Urban Renewal Plan; and
- (b) Not discriminate upon the basis of race, color, creed, or national origin in the sale, lease, or rental or in the use or occupancy of the Property or any improvements erected or to be erected thereon, or any part thereof.

SEC. 402. Covenants; Binding Upon Successors in Interest; Period of Duration. It is intended and agreed, and the Deed shall so expressly provide, that the agreements and covenants provided in Section 401 hereof, shall be covenants running with the land and that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in the Agreement, be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the Agency, its successors and assigns, the City and any successor in interest to the Property, or any part thereof, and the owner of any other land (or of any interest in such land) in the Project Area which is subject to the land use requirements and restrictions of the Urban Renewal Plan, and the United

States (in the case of the covenant provided in subdivision (b) of Section 401 hereof), against the Redeveloper, its successors and assigns and every successor in interest to the Property, or any part thereof or any interest therein, and any party in possession or occupancy of the Property or any part thereof. It is further intended and agreed that the agreement and covenant provided in subdivision (a) of Section 401 hereof shall remain in effect for the period of time, or until the date, specified or referred to in Section 6 of Part I hereof (at which time such agreement and covenant shall terminate) and that the agreements and covenants provided in subdivision (b) of Section 401 hereof shall remain in effect without limitation as to time: Provided, That such agreements and covenants shall be binding on the Redeveloper itself, each successor in interest to the Property, and every part thereof, and each party in possession or occupancy, respectively, only for such period as such successor or party shall have title to, or an interest in, or possession or occupancy of, the Property or part thereof. The terms "uses specified in the Urban Renewal Plan" and "land use" referring to provisions of the Urban Renewal Plan, or similar language, in the Agreement shall include the land and all building, housing, and other requirements or restrictions of the Urban Renewal Plan pertaining to such land.

SEC. 403. Agency and United States Rights To Enforce. In amplification, and not in restriction of, the provisions of the preceding Section, it is intended and agreed that the Agency and its successors and assigns shall be deemed beneficiaries of the agreements and covenants provided in Section 401 hereof, and the United States shall be deemed a beneficiary of the covenant provided in subdivision (b) of Section 401 hereof, both for and in their or its own right and also for the purposes of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants have been provided. Such agreements and covenants shall (and the Deed shall so state) run in favor of the Agency and the United States, for the entire period during which such agreements and covenants shall be in force and effect, without regard to whether the Agency or the United States has at any time been, remains, or is an owner of any land or interest therein to or in favor of which such agreements and covenants relate. The Agency shall have the right, in the event of any breach of any such agreement or covenant, and the United States shall have the right in the event of any breach of the covenant provided in subdivision (b) of Section 401 hereof, to exercise all the rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breach of agreement or covenant, to which it or any other beneficiaries of such agreement or covenant may be entitled.

ARTICLE V. PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER

SEC. 501. Representations As to Redevelopment. The Redeveloper represents and agrees that its purchase of the Property, and its other undertakings pursuant to the Agreement, are, and will be used, for the

purpose of redevelopment of the Property and not for speculation in land holding. The Redeveloper further recognizes that, in view of

- (a) the importance of the redevelopment of the Property to the general welfare of the community;
- (b) the substantial financing and other public aids that have been made available by law and by the Federal and local Governments for the purpose of making such redevelopment possible; and
- (c) the fact that a transfer of the stock in the Redeveloper or of a substantial part thereof, or any other act or transaction involving or resulting in a significant change in the ownership or distribution of such stock or with respect to the identity of the parties in control of the Redeveloper or the degree thereof, is for practical purposes a transfer or disposition of the Property then owned by the Redeveloper,

the qualifications and identity of the Redeveloper, and its stockholders, are of particular concern to the community and the Agency. The Redeveloper further recognizes that it is because of such qualifications and identity that the Agency is entering into the Agreement with the Redeveloper, and, in so doing, is further willing to accept and rely on the obligations of the Redeveloper for the faithful performance of all undertakings and covenants hereby by it to be performed without requiring in addition a surety bond or similar undertaking for such performance of all undertakings and covenants in the Agreement.

SEC. 502. Prohibition Against Transfer of Shares of Stock; Binding Upon Stockholders Individually. For the foregoing reasons, the Redeveloper represents and agrees for itself, its stockholders, and any successor in interest of itself and its stockholders, respectively, that: Prior to completion of the Improvements as certified by the Agency, and without the prior written approval of the Agency, (a) there shall be no transfer by any party owning 10 percent or more of the stock in the Redeveloper (which term shall be deemed for the purposes of this and related provisions to include successors in interest of such stock or any part thereof or interest therein), (b) nor shall any such owner suffer any such transfer to be made, (c) nor shall there be or be suffered to be by the Redeveloper, or by any owner of 10 percent or more of the stock therein, any other similarly significant change in the ownership of such stock or in the relative distribution thereof, or with respect to the identity of the parties in control of the Redeveloper or the degree thereof, by any other method or means, whether by increased capitalization, merger with another corporation, corporate or other amendments, issuance of additional or new stock or classification of stock, or otherwise. With respect to this provision, the Redeveloper and the parties signing the Agreement on behalf of the Redeveloper represent that they have the authority of all of its existing stockholders to agree to this provision on their behalf and to bind them with respect thereto.

503. Prohibition Against Transfer of Property and Assignment of Agreement. Also, for the foregoing reasons, the Redeveloper represents and agrees for itself, and its successors and assigns, that:

(a) Except only

- (1) by way of security for, and only for, (i) the purpose of obtaining financing necessary to enable the Redeveloper or any successor in interest to the Property, or any part thereof, to perform its obligations with respect to making the Improvements under the Agreement, and (ii) any other purpose authorized by the Agreement, and
- (2) as to any individual parts or parcels of the Property on which the Improvements to be constructed thereon have been completed, and which, by the terms of the Agreement, the Redeveloper is authorized to convey or lease as such Improvements are completed,

the Redeveloper (except as so authorized) has not made or created, and that it will not, prior to the proper completion of the Improvements as certified by the Agency, make or create, or suffer to be made or created, any total or partial sale, assignment, conveyance, or lease, or any trust or power, or transfer in any other mode or form of or with respect to the Agreement or the Property, or any part thereof or any interest therein, or any contract or agreement to do any of the same, without the prior written approval of the Agency: Provided, That, prior to the issuance by the Agency of the certificate provided for in Section 307 hereof as to completion of construction of the Improvements, the Redeveloper may enter into any agreement to sell, lease, or otherwise transfer, after the issuance of such certificate, the Property or any part thereof or interest therein, which agreement shall not provide for payment of or on account of the purchase price or rent for the Property, or the part thereof or the interest therein to be so transferred, prior to the issuance of such certificate.

(b) The Agency shall be entitled to require, except as otherwise provided in the Agreement, as conditions to any such approval that:

- (1) Any proposed transferee shall have the qualifications and financial responsibility, as determined by the Agency, necessary and adequate to fulfill the obligations undertaken in the Agreement by the Redeveloper (or, in the event the transfer is of or relates to part of the Property, such obligations to the extent that they relate to such part).
- (2) Any proposed transferee, by instrument in writing satisfactory to the Agency and in form recordable among the land records, shall, for itself and its successors and assigns, and expressly for the benefit of the Agency, have expressly assumed all of the obligations of the Redeveloper

under the Agreement and agreed to be subject to all the conditions and restrictions to which the Redeveloper is subject (or, in the event the transfer is of or relates to part of the Property, such obligations, conditions, and restrictions to the extent that they relate to such part): Provided, That the fact that any transferee of, or any other successor in interest whatsoever to, the Property, or any part thereof, shall, whatever the reason, not have assumed such obligations or so agreed, shall not (unless and only to the extent otherwise specifically provided in the Agreement or agreed to in writing by the Agency) relieve or except such transferee or successor of or from such obligations, conditions, or restrictions, or deprive or limit the Agency of or with respect to any rights or remedies or controls with respect to the Property or the construction of the Improvements; it being the intent of this, together with other provisions of the Agreement, that (to the fullest extent permitted by law and equity and excepting only in the manner and to the extent specifically provided otherwise in the Agreement) no transfer of, or change with respect to, ownership in the Property or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate, legally or practically, to deprive or limit the Agency of or with respect to any rights or remedies or controls provided in or resulting from the Agreement with respect to the Property and the construction of the Improvements that the Agency would have had, had there been no such transfer or change.

- (3) There shall be submitted to the Agency for review all instruments and other legal documents involved in effecting transfer; and if approved by the Agency, its approval shall be indicated to the Redeveloper in writing.
- (4) The consideration payable for the transfer by the transferee or on its behalf shall not exceed an amount representing the actual cost (including carrying charges) to the Redeveloper of the Property (or allocable to the part thereof or interest therein transferred) and the Improvements, if any, theretofore made thereon by it; it being the intent of this provision to preclude assignment of the Agreement or transfer of the Property (or any parts thereof other than those referred to in subdivision (2), Paragraph (a) of this Section 503) for profit prior to the completion of the Improvements, and to provide that in the event any such assignment or transfer is made (and is not canceled), the Agency shall be entitled to increase the Purchase Price to the Redeveloper by the amount that the consideration payable for the assignment or transfer is in excess of the amount that may be authorized pursuant to this subdivision (4), and such consideration shall, to the extent it is in excess of the amount so authorized, belong to and forthwith be paid to the Agency.

- (5) The Redeveloper and its transferee shall comply with such other conditions as the Agency may find desirable in order to achieve and safeguard the purposes of the Urban Renewal Act and the Urban Renewal Plan.

Provided, That in the absence of specific written agreement by the Agency to the contrary, no such transfer or approval by the Agency thereof shall be deemed to relieve the Redeveloper, or any other party bound in any way by the Agreement or otherwise with respect to the construction of the Improvements, from any of its obligations with respect thereto.

SEC. 504. Information As to Stockholders. In order to assist in the effectuation of the purposes of this Article V and the statutory objectives generally, the Redeveloper agrees that during the period between execution of the Agreement and completion of the Improvements as certified by the Agency, (a) the Redeveloper will promptly notify the Agency of any and all changes whatsoever in the ownership of stock, legal or beneficial, or of any other act or transaction involving or resulting in any change in the ownership of such stock or in the relative distribution thereof, or with respect to the identity of the parties in control of the Redeveloper or the degree thereof, of which it or any of its officers have been notified or otherwise have knowledge or information; and (b) the Redeveloper shall, at such time or times as the Agency may request, furnish the Agency with a complete statement, subscribed and sworn to by the President or other executive officer of the Redeveloper, setting forth all of the stockholders of the Redeveloper and the extent of their respective holdings, and in the event any other parties have a beneficial interest in such stock their names and the extent of such interest, all as determined or indicated by the records of the Redeveloper, by specific inquiry made by any such officer, of all parties who on the basis of such records own 10 percent or more of the stock in the Redeveloper, and by such other knowledge or information as such officer shall have. Such lists, data, and information shall in any event be furnished the Agency immediately prior to the delivery of the Deed to the Redeveloper and as a condition precedent thereto, and annually thereafter on the anniversary of the date of the Deed until the issuance of a certificate of completion for all the Property.

ARTICLE VI. MORTGAGE FINANCING; RIGHTS OF MORTGAGEES

SEC. 601. Limitation Upon Encumbrance of Property. Prior to the completion of the Improvements, as certified by the Agency, neither the Redeveloper nor any successor in interest to the Property or any part thereof shall engage in any financing or any other transaction creating any mortgage or other encumbrance or lien upon the Property, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attach to the Property, except for the purposes of obtaining (a) funds only to the extent necessary for making the Improvements and (b) such additional funds, if any, in an amount not to exceed the Purchase Price paid by the Redeveloper to the Agency. The Redeveloper (or successor in interest) shall notify the Agency in advance of any financing, secured by mortgage or other

similar lien instrument, it proposes to enter into with respect to the Property, or any part thereof, and in any event it shall promptly notify the Agency of any encumbrance or lien that has been created on or attached to the Property, whether by voluntary act of the Redeveloper or otherwise. For the purposes of such mortgage financing as may be made pursuant to the Agreement, the Property may, at the option of the Redeveloper (or successor in interest), be divided into several parts or parcels, provided that such subdivision, in the opinion of the Agency, is not inconsistent with the purposes of the Urban Renewal Plan and the Agreement and is approved in writing by the Agency.

SEC. 602. Mortgagee Not Obligated To Construct. Notwithstanding any of the provisions of the Agreement, including but not limited to those which are or are intended to be covenants running with the land, the holder of any mortgage authorized by the Agreement (including any such holder who obtains title to the Property or any part thereof as a result of foreclosure proceedings, or action in lieu thereof, but not including (a) any other party who thereafter obtains title to the Property or such part from or through such holder or (b) any other purchaser at foreclosure sale other than the holder of the mortgage itself) shall in no wise be obligated by the provisions of the Agreement to construct or complete the Improvements or to guarantee such construction or completion; nor shall any covenant or any other provision in the Deed be construed to so obligate such holder; Provided, That nothing in this Section or any other Section or provision of the Agreement shall be deemed or construed to permit or authorize any such holder to devote the Property or any part thereof to any uses, or to construct any improvements thereon, other than those uses or improvements provided or permitted in the Urban Renewal Plan and in the Agreement.

SEC. 603. Copy of Notice of Default to Mortgagee. Whenever the Agency shall deliver any notice or demand to the Redeveloper with respect to any breach or default by the Redeveloper in its obligations or covenants under the Agreement, the Agency shall at the same time forward a copy of such notice or demand to each holder of any mortgage authorized by the Agreement at the last address of such holder shown in the records of the Agency.

SEC. 604. Mortgagee's Option To Cure Defaults. After any breach or default referred to in Section 603 hereof, each such holder shall (insofar as the rights of the Agency are concerned) have the right, at its option, to cure or remedy such breach or default (or such breach or default to the extent that it relates to the part of the Property covered by its mortgage) and to add the cost thereof to the mortgage debt and the lien of its mortgage: Provided, That if the breach or default is with respect to construction of the Improvements, nothing contained in this Section or any other Section of the Agreement shall be deemed to permit or authorize such holder, either before or after foreclosure or action in lieu thereof, to undertake or continue the construction or completion of the Improvements (beyond the extent necessary to conserve or protect Improvements or construction already made) without first having expressly assumed the obligation to the Agency, by written agreement satisfactory to the Agency, to complete, in the manner provided in the Agreement, the Improvements on

the Property or the part thereof to which the lien or title of such holder relates. Any such holder who shall properly complete the Improvements relating to the Property or applicable part thereof shall be entitled, upon written request made to the Agency, to a certification or certifications by the Agency to such effect in the manner provided in Section 307 of the Agreement, and any such certification shall, if so requested by such holder, mean and provide that any remedies or rights with respect to recapture of or reversion or revesting of title to the Property that the Agency shall have or be entitled to because of failure of the Redeveloper or any successor in interest to the Property, or any part thereof, to cure or remedy any default with respect to the construction of the Improvements on other parts or parcels of the Property, or because of any other default in or breach of the Agreement by the Redeveloper or such successor, shall not apply to the part or parcel of the Property to which such certification relates.

SEC. 605. Agency's Option To Pay Mortgage Debt or Purchase Property.
In any case, where, subsequent to default or breach by the Redeveloper (or successor in interest) under the Agreement, the holder of any mortgage on the Property or part thereof

- (a) has, but does not exercise, the option to construct or complete the Improvements relating to the Property or part thereof covered by its mortgage or to which it has obtained title, and such failure continues for a period of sixty (60) days after the holder has been notified or informed of the default or breach; or
- (b) undertakes construction or completion of the Improvements but does not complete such construction within the period as agreed upon by the Agency and such holder (which period shall in any event be at least as long as the period prescribed for such construction or completion in the Agreement), and such default shall not have been cured within sixty (60) days after written demand by the Agency so to do,

the Agency shall (and every mortgage instrument made prior to completion of the Improvements with respect to the Property by the Redeveloper or successor in interest shall so provide) have the option of paying to the holder the amount of the mortgage debt and securing an assignment of the mortgage and the debt secured thereby, or, in the event ownership of the Property (or part thereof) has vested in such holder by way of foreclosure or action in lieu thereof, the Agency shall be entitled, at its option, to a conveyance to it of the Property or part thereof (as the case may be) upon payment to such holder of an amount equal to the sum of: (i) the mortgage debt at the time of foreclosure or action in lieu thereof (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings); (ii) all expenses with respect to the foreclosure; (iii) the net expense, if any (exclusive of general overhead), incurred by such holder in and as a direct result of the subsequent management of the Property; (iv) the costs of any Improvements made by such holder; and (v) an amount equivalent to the interest that would have accrued on the

aggregate of such amounts had all such amounts become part of the mortgage debt and such debt had continued in existence.

LI 19264 PA 219

SEC. 606. Agency's Option To Cure Mortgage Default. In the event of a default or breach prior to the completion of the Improvements by the Redeveloper, or any successor in interest, in or of any of its obligations under, and to the holder of, any mortgage or other instrument creating an encumbrance or lien upon the Property or part thereof, the Agency may at its option cure such default or breach, in which case the Agency shall be entitled, in addition to and without limitation upon any other rights or remedies to which it shall be entitled by the Agreement, operation of law, or otherwise, to reimbursement from the Redeveloper or successor in interest of all costs and expenses incurred by the Agency in curing such default or breach and to a lien upon the Property (or the part thereof to which the mortgage, encumbrance, or lien relates) for such reimbursement: Provided, That any such lien shall be subject always to the lien of (including any lien contemplated, because of advances yet to be made, by) any then existing mortgages on the Property authorized by the Agreement.

SEC. 607. Mortgage and Holder. For the purposes of the Agreement: The term "mortgage" shall include a deed of trust or other instrument creating an encumbrance or lien upon the Property, or any part thereof, as security for a loan. The term "holder" in reference to a mortgage shall include any insurer or guarantor of any obligation or condition secured by such mortgage or deed of trust, including, but not limited to, the Federal Housing Commissioner, the Administrator of Veterans Affairs, and any successor in office of either such official.

ARTICLE VII. REMEDIES

SEC. 701. In General. Except as otherwise provided in the Agreement, in the event of any default in or breach of the Agreement, or any of its terms or conditions, by either party hereto, or any successor to such party, such party (or successor) shall, upon written notice from the other, proceed immediately to cure or remedy such default or breach, and, in any event, within sixty (60) days after receipt of such notice. In case such action is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including, but not limited to, proceedings to compel specific performance by the party in default or breach of its obligations.

SEC. 702. Termination by Redeveloper Prior to Conveyance. In the event that

- (a) the Agency does not tender conveyance of the Property, or possession thereof, in the manner and condition, and by the date, provided in the Agreement, and any such failure shall not

be cured within thirty (30) days after the date of written demand by the Redeveloper; or

L119264 PA220

- (b) the Redeveloper shall, after preparation of Construction Plans satisfactory to the Agency, furnish evidence satisfactory to the Agency that it has been unable, after and despite diligent effort for a period of sixty (60) days after approval by the Agency of the Construction Plans, to obtain mortgage financing for the construction of the Improvements on a basis and on terms that would generally be considered satisfactory by builders or contractors for improvements of the nature and type provided in such Construction Plans, and the Redeveloper shall, after having submitted such evidence and if so requested by the Agency, continue to make diligent efforts to obtain such financing for a period of sixty (60) days after such request, but without success,

then the Agreement shall, at the option of the Redeveloper, be terminated by written notice thereof to the Agency, and, except with respect to the return of the Deposit as provided in Paragraph (e), Section 3 of Part I hereof, neither the Agency nor the Redeveloper shall have any further rights against or liability to the other under the Agreement.

SEC. 703. Termination by Agency Prior to Conveyance. In the event that

- (a) prior to conveyance of the Property to the Redeveloper and in violation of the Agreement
 - (i) the Redeveloper (or any successor in interest) assigns or attempts to assign the Agreement or any rights therein, or in the Property, or
 - (ii) there is any change in the ownership or distribution of the stock of the Redeveloper or with respect to the identity of the parties in control of the Redeveloper or the degree thereof; or
- (b) the Redeveloper does not submit Construction Plans, as required by the Agreement, or (except as excused under subdivision (b) of Section 702 hereof) evidence that it has the necessary equity capital and mortgage financing, in satisfactory form and in the manner and by the dates respectively provided in the Agreement therefor; or
- (c) the Redeveloper does not pay the Purchase Price and take title to the Property upon tender of conveyance by the Agency pursuant to the Agreement, and if any default or failure referred to in subdivisions (b) and (c) of this Section 703 shall not be cured within thirty (30) days after the date of written demand by the Agency,

then the Agreement, and any rights of the Redeveloper, or any assignee or transferee, in the Agreement, or arising therefrom with respect to the Agency or the Property, shall, at the option of the Agency, be terminated by the Agency, in which event, as provided in Paragraph (d), Section 3 of Part I hereof, the Deposit shall be retained by the Agency as liquidated damages and as its property without any deduction, offset, or recoupment whatsoever, and neither the Redeveloper (or assignee or transferee) nor the Agency shall have any further rights against or liability to the other under the Agreement.

SEC. 704. Revesting Title in Agency Upon Happening of Event Subsequent to Conveyance to Redeveloper. In the event that subsequent to conveyance of the Property or any part thereof to the Redeveloper and prior to completion of the Improvements as certified by the Agency

- (a) the Redeveloper (or successor in interest) shall default in or violate its obligations with respect to the construction of the Improvements (including the nature and the dates for the beginning and completion thereof), or shall abandon or substantially suspend construction work, and any such default, violation, abandonment, or suspension shall not be cured, ended, or remedied within three (3) months (six (6) months, if the default is with respect to the date for completion of the Improvements) after written demand by the Agency so to do; or
- (b) the Redeveloper (or successor in interest) shall fail to pay real estate taxes or assessments on the Property or any part thereof when due, or shall place thereon any encumbrance or lien unauthorized by the Agreement, or shall suffer any levy or attachment to be made, or any materialmen's or mechanics' lien, or any other unauthorized encumbrance or lien to attach, and such taxes or assessments shall not have been paid, or the encumbrance or lien removed or discharged or provision satisfactory to the Agency made for such payment, removal, or discharge, within ninety (90) days after written demand by the Agency so to do; or
- (c) there is, in violation of the Agreement, any transfer of the Property or any part thereof, or any change in the ownership or distribution of the stock of the Redeveloper, or with respect to the identity of the parties in control of the Redeveloper or the degree thereof, and such violation shall not be cured within sixty (60) days after written demand by the Agency to the Redeveloper,

then the Agency shall have the right to re-enter and take possession of the Property and to terminate (and re-vest in the Agency) the estate conveyed by the Deed to the Redeveloper, it being the intent of this provision, together with other provisions of the Agreement, that the conveyance of the Property to the Redeveloper shall be made upon, and that the Deed shall contain, a condition subsequent to the effect that in the event of any default, failure, violation, or other action or inaction by the Redeveloper specified in subdivisions (a), (b), and (c) of this Section 704, failure on the part of

L19264 PA222

the Redeveloper to remedy, end, or abrogate such default, failure, violation, or other action or inaction, within the period and in the manner stated in such subdivisions, the Agency at its option may declare a termination in favor of the Agency of the title, and of all the rights and interests in and to the Property conveyed by the Deed to the Redeveloper, and that such title and all rights and interests of the Redeveloper, and any assigns or successors in interest to and in the Property, shall revert to the Agency: Provided, That such condition subsequent and any reversion of title as a result thereof in the Agency

- (1) shall always be subject to and limited by, and shall not defeat, render invalid, or limit in any way, (i) the lien of any mortgage authorized by the Agreement, and (ii) any rights or interests provided in the Agreement for the protection of the holders of such mortgages; and
- (2) shall not apply to individual parts or parcels of the Property (or, in the case of parts or parcels leased, the leasehold interest) on which the Improvements to be constructed thereon have been completed in accordance with the Agreement and for which a certificate of completion is issued therefor as provided in Section 307 hereof.

In addition to, and without in any way limiting the Agency's right to reentry as provided for in the preceding sentence, the Agency shall have the right to retain the Deposit, as provided in Paragraph (d), Section 3 of Part I hereof, without any deduction, offset or recoupment whatsoever, in the event of a default, violation or failure of the Redeveloper as specified in the preceding sentence.

SEC. 705. Resale of Reacquired Property; Disposition of Proceeds.

Upon the reversion in the Agency of title to the Property or any part thereof as provided in Section 704, the Agency shall, pursuant to its responsibilities under State law, use its best efforts to resell the Property or part thereof (subject to such mortgage liens and leasehold interests as in Section 704 set forth and provided) as soon and in such manner as the Agency shall find feasible and consistent with the objectives of such law and of the Urban Renewal Plan to a qualified and responsible party or parties (as determined by the Agency) who will assume the obligation of making or completing the Improvements or such other improvements in their stead as shall be satisfactory to the Agency and in accordance with the uses specified for such Property or part thereof in the Urban Renewal Plan. Upon such resale of the Property, the proceeds thereof shall be applied:

- (a) First, to reimburse the Agency, on its own behalf or on behalf of the City, for all costs and expenses incurred by the Agency, including but not limited to salaries of personnel, in connection with the recapture, management, and resale of the Property or part thereof (but less any income derived by the Agency from the Property or part thereof in connection with such management); all taxes, assessments, and water and sewer charges with respect to the Property or part thereof (or, in the event the Property is exempt from taxation or assessment or such charges during the

period of ownership thereof by the Agency, an amount, if paid, equal to such taxes, assessments, or charges (as determined by the City assessing official) as would have been payable if the Property were not so exempt); any payments made or necessary to be made to discharge any encumbrances or liens existing on the Property or part thereof at the time of revesting of title thereto in the Agency or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults, or acts of the Redeveloper, its successors or transferees; any expenditures made or obligations incurred with respect to the making or completion of the Improvements or any part thereof on the Property or part thereof; and any amounts otherwise owing the Agency by the Redeveloper and its successor or transferee; and

- (b) Second, to reimburse the Redeveloper, its successor or transferee, up to the amount equal to (1) the sum of the purchase price paid by it for the Property (or allocable to the part thereof) and the cash actually invested by it in making any of the Improvements on the Property or part thereof, less (2) any gains or income withdrawn or made by it from the Agreement or the Property.

Any balance remaining after such reimbursements shall be retained by the Agency as its property.

SEC. 706. Other Rights and Remedies of Agency; No Waiver by Delay.
The Agency shall have the right to institute such actions or proceedings as it may deem desirable for effectuating the purposes of this Article VII, including also the right to execute and record or file among the public land records in the office in which the Deed is recorded a written declaration of the termination of all the right, title, and interest of the Redeveloper, and (except for such individual parts or parcels upon which construction of that part of the Improvements required to be constructed thereon has been completed, in accordance with the Agreement, and for which a certificate of completion as provided in Section 307 hereof is to be delivered, and subject to such mortgage liens and leasehold interests as provided in Section 704 hereof) its successors in interest and assigns, in the Property, and the revesting of title thereto in the Agency: Provided, That any delay by the Agency in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Article VII shall not operate as a waiver of such rights or to deprive it of or limit such rights in any way (it being the intent of this provision that the Agency should not be constrained (so as to avoid the risk of being deprived of or limited in the exercise of the remedy provided in this Section because of concepts of waiver, laches, or otherwise) to exercise such remedy at a time when it may still hope otherwise to resolve the problems created by the default involved); nor shall any waiver in fact made by the Agency with respect to any specific default by the Redeveloper under this Section be considered or treated as a waiver of the rights of the Agency

with respect to any other defaults by the Redeveloper under this Section or with respect to the particular default except to the extent specifically waived in writing.

SEC. 707. Enforced Delay in Performance for Causes Beyond Control of Party. For the purposes of any of the provisions of the Agreement, neither the Agency nor the Redeveloper, as the case may be, nor any successor in interest, shall be considered in breach of, or default in, its obligations with respect to the preparation of the Property for redevelopment, or the beginning and completion of construction of the Improvements, or progress in respect thereto, in the event of enforced delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not restricted to, acts of God, acts of the public enemy, acts of the Federal Government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight, embargoes, and unusually severe weather or delays of subcontractors due to such causes; it being the purpose and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of the Agency with respect to the preparation of the Property for redevelopment or of the Redeveloper with respect to construction of the Improvements, as the case may be, shall be extended for the period of the enforced delay as determined by the Agency: Provided, That the party seeking the benefit of the provisions of this Section shall, within ten (10) days after the beginning of any such enforced delay, have first notified the other party thereof in writing, and of the cause or causes thereof, and requested an extension for the period of the enforced delay.

SEC. 708. Rights and Remedies Cumulative. The rights and remedies of the parties to the Agreement, whether provided by law or by the Agreement, shall be cumulative, and the exercise by either party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or breach or of any of its remedies for any other default or breach by the other party. No waiver made by either such party with respect to the performance, or manner or time thereof, or any obligation of the other party or any condition to its own obligation under the Agreement shall be considered a waiver of any rights of the party making the waiver with respect to the particular obligation of the other party or condition to its own obligation beyond those expressly waived in writing and to the extent thereof, or a waiver in any respect in regard to any other rights of the party making the waiver or any other obligations of the other party.

SEC. 709. Party in Position of Surety With Respect to Obligations. The Redeveloper, for itself and its successors and assigns, and for all other persons who are or who shall become, whether by express or implied assumption or otherwise, liable upon or subject to any obligation or burden under the Agreement, hereby waives, to the fullest extent permitted by law and equity, any and all claims or defenses otherwise available on the ground of its (or their) being or having become a person in the position of a surety, whether real, personal, or otherwise or whether by agreement or operation of law, including, without limitation on the generality of the foregoing, any and all claims and defenses based upon extension of time, indulgence, or modification of terms of contract.

ARTICLE VIII. MISCELLANEOUS

L19264 PA225

SEC. 801. Conflict of Interests; Agency Representatives Not Individually Liable. No member, official, or employee of the Agency shall have any personal interest, direct or indirect, in the Agreement, nor shall any such member, official, or employee participate in any decision relating to the Agreement which affects his personal interests or the interests of any corporation, partnership, or association in which he is, directly or indirectly, interested. No member, official, or employee of the Agency shall be personally liable to the Redeveloper, or any successor in interest, in the event of any default or breach by the Agency or for any amount which may become due to the Redeveloper or successor or on any obligations under the terms of the Agreement.

SEC. 802. Equal Employment Opportunity. The Redeveloper, for itself and its successors and assigns, agrees that during the construction of the Improvements provided for in the Agreement:

(a) The Redeveloper will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Redeveloper will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Redeveloper agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Agency setting forth the provisions of this nondiscrimination clause.

(b) The Redeveloper will, in all solicitations or advertisements for employees placed by or on behalf of the Redeveloper, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(c) The Redeveloper will send to each labor union or representative of workers with which the Redeveloper has a collective bargaining agreement or other contract or understanding, a notice, to be provided, advising the labor union or workers' representative of the Redeveloper's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Redeveloper will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(c) The Redeveloper will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor or the Secretary of Housing and Urban Development pursuant thereto, and will permit access to the Redeveloper's books, records, and accounts by the Agency, the Secretary of Housing and Urban Development, and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Redeveloper's noncompliance with the nondiscrimination clauses of this Section, or with any of the said rules, regulations, or orders, the Agreement may be canceled, terminated, or suspended in whole or in part and the Redeveloper may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Redeveloper will include the provisions of Paragraphs (a) through (g) of this Section in every contract or purchase order, and will require the inclusion of these provisions in every subcontract entered into by any of its contractors, unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each such contractor, subcontractor, or vendor, as the case may be. The Redeveloper will take such action with respect to any construction contract, subcontract, or purchase order as the Agency or the Department of Housing and Urban Development may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event the Redeveloper becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Agency or the Department of Housing and Urban Development, the Redeveloper may request the United States to enter into such litigation to protect the interests of the United States. For the purpose of including such provisions in any construction contract, subcontract, or purchase order, as required hereby, the first three lines of this Section shall be changed to read "During the performance of this Contract, the Contractor agrees as follows:", and the term "Redeveloper" shall be changed to "Contractor".

SEC. 803. Provisions Not Merged With Deed. None of the provisions of the Agreement are intended to or shall be merged by reason of any deed transferring title to the Property from the Agency to the Redeveloper or any successor in interest, and any such deed shall not be deemed to affect or impair the provisions and covenants of the Agreement.

SEC. 804. Titles of Articles and Sections. Any titles of the several parts, Articles, and Sections of the Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.